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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/865,175	05/24/2001	Thomas Tobin	434-226	3002
1009	7590	06/22/2004		
KING & SCHICKLI, PLLC 247 NORTH BROADWAY LEXINGTON, KY 40507			EXAMINER COOK, REBECCA	
			ART UNIT	PAPER NUMBER
			1614	

DATE MAILED: 06/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/865,175

Applicant(s)

TOBIN, THOMAS

Examiner

Rebecca Cook

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 March 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 41-49 and 51-64 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 41-49, 51-64 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

Status of Claims

Claims 1-19 were cancelled in the amendment of June 19, 2002. Claims 21 and 37 were cancelled in the amendment of February 20, 2003. Claims 20, 22-36, 38-48 and 50 were cancelled in the amendment of November 28, 2003. Claims 41-29 and 51-64 are currently pending.

Specification

The specification is objected to for the reasons given in the Paper of 5/23/03. Applicant's intent to amend the specification and correct the misspelled words in the claims upon receipt of a notice of allowability is noted.

Claim Rejections - 35 USC § 112

Claims 41-48 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are not complete, since they ultimately depend from cancelled claim 36. Furthermore, in the event that their dependency is amended so that they depend from claim 49, they will be objected as being duplicates of claims 54 and 58-64, respectively. However, for the purpose of advancing prosecution, the claims will be examined as if they depended from claim 49.

In view of the amendment to claim 49, the earlier rejection under 35 USC 112, paragraph one is withdrawn.

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In view of the cancellation of claims 20, 36 and 50 the earlier amendment under 35 USC 112, paragraph two does not apply.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 41-29 and 51-64 are rejected under 35 U.S.C. 103(a) as being unpatentable over 5,635,204 (Gevirtz et al), alone or in view of Veterinary Pharmacology and Therapeutics (Adams).

Gevirtz (abstract, column 1, lines 35047, column 3, lines 13-16) discloses a method of inducing sedation and analgesia using a guanidine derivative, including guanabenz and clonidine. It further discloses a method of reversing the analgesia and sedation using the instant α -adrenergic antagonist. Claim 49 differs over Gevirtz in reciting a method for providing chemical restraint. The claims further differ over Gevirtz in reciting specific routes of administration, subjects and dosages. However, once a method of use is known it is within the scope of the artisan to determine optimum routes of administration, subjects and dosages. Additionally, Adams (page 160, column 2, "Tranquilizer-Sedative" through page 162, column 1, lines 1-2) discloses that sedatives are used in animals to produce "chemical restraint."

Applicant argues that Gevirtz requires a combination of drugs to induce general anesthesia and places an animal in recumbancy. This is not persuasive. The instant "comprising" language does not exclude a combination of drugs or recumbancy.

Applicant's arguments regarding Adams are not persuasive, since Adams is cited to show that sedatives are used in animals to produce "chemical restraint."

Applicant's arguments regarding claims 36 and 38-48 are moot, since claim 36 has been cancelled.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Cook whose telephone number is (571) 272-0571. The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Low, can be reached on (571)272-0951.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to Renee Jones (571) 272-0547 in Customer Service.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

The official fax number is 703-872-9806

Rebecca Cook

A handwritten signature in cursive script that reads "Rebecca Cook".

Primary Examiner
Art Unit 1614

June 20, 2004